

# **EXHIBIT 2**

**From:** [Kate Swift](#)  
**To:** [Peter H. Weinberger](#)  
**Cc:** [Mark.Lanier@lanierlawfirm.com](#); [David R. Cohen](#); [EXT Track3Defendants](#); [Bennett, James R. \(USAOHN\)](#); [Jaco, Andrew J \(CIV\)](#); [Sobotkin, David M. \(CIV\)](#); [Bacchus, Renee A. \(USAOHN\)](#); [Phipps, Kelly E. \(CIV\)](#); [2804](#); [Singer, Linda](#); [melsner@motleyrice.com](#); [Peter Mougey](#)  
**Subject:** Re: MDL Track 3 - deposition of Joe Rannazzisi  
**Date:** Friday, August 6, 2021 3:20:08 PM

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Pete,

As you note below, Plaintiffs did not disclose that you intended to seek testimony from Mr. Rannazzisi on dispensing issues - issues we were precluded from asking him about during his Track 1 deposition due to the Touhy authorization and Plaintiffs' distribution-only claims - until this past Friday, July 30. (Contrary to your assertion, you only provided that information after counsel for CVS reached out for the express purpose of determining whether we needed to take another deposition.) As you also note below, Plaintiffs have not yet even sought Touhy authorization for that additional dispensing testimony.

The Pharmacy Defendants therefore had no reason to seek an additional deposition until one week ago. Once you disclosed your intention, we promptly requested that deposition, within the schedule set by the Court.

It should go without saying that good cause exists for this deposition. It will address dispensing issues that are central to the case and that, to date, we have been precluded from exploring with Mr. Rannazzisi based on the limited prior Touhy authorization.

On behalf of Giant Eagle, Rite Aid, Walgreens, and Walmart, we intend to serve a subpoena for Mr. Rannazzisi's deposition later today or as soon as possible thereafter. Please let us know if you would like to discuss further, as we would prefer to coordinate if possible.

Thanks.

BartlitBeck LLP

Katherine M. Swift | p: [312.494.4405](tel:312.494.4405) | c: [773.531.6118](tel:773.531.6118) | [Kate.Swift@BartlitBeck.com](mailto:Kate.Swift@BartlitBeck.com) | Courthouse Place, [54 West Hubbard Street, Chicago, IL 60654](#)

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On Aug 6, 2021, at 9:07 AM, Peter H. Weinberger  
<[PWeinberger@spanglaw.com](mailto:PWeinberger@spanglaw.com)> wrote:

**\*\* External mail \*\***

Dear Kate:

Plaintiffs object to any attempt to depose Joe Rannazzisi at this late date. The deadline for third party fact discovery was March 19, 2021. The deadline for serving third party subpoenas was February 26, 2021. (Doc #3595 para E 7 and 9).

Defendants have been on notice that Mr. Rannazzisi would be a witness in CT 3 for at least a year and we has been repeatedly listed him as a fact witness since then:

- 1) Disclosed in our **July 9, 2020** ROG responses (pg. 30-31)
- (2) Disclosed as part of our Persons with Knowledge List **October 30th, 2020**.
- (3) Disclosed as part of witness list **June 15, 2021**.
- (4) Disclosed as part of 50 fact witnesses most likely to call on **June 24, 2021**.
- (5) Disclosed as part of Final Witness List on **July 26, 2021**.

Recently, CVS's counsel., Mr. Ruiz, reached out to me on behalf of the pharmacy defendants to discuss the scope of his factual testimony. I responded with a lengthy email on July 30, 2021. At no time did he raise the specter of a discovery deposition.

All of the pharmacy defendants have been on notice of Mr. Rannazzisi's involvement in DEA enforcement actions regarding dispensing practices. As but one example, he provided an extensive declaration in the Holiday CVS case in 2012 in which he detailed the CSA's regulations regarding dispensing. That declaration was produced in discovery in this case and was referenced across all of the defendants' productions.

The defendants are required to show good cause as to why you did not previously seek his deposition during the required time frames. (Doc 3595 Section K 11). You have failed to do so.

We have not yet corresponded with the DOJ seeking Touhy authorization for Mr. Rannazzisi's trial testimony. However, such a request will mirror the subjects set forth in my email to Mr. Ruiz, a copy of which is attached.

Since you intend apparently to serve a subpoena, I am copying SM Cohen because consistent with this email, we object to any attempt to depose him in CT 3.

Pete

**From:** Kate Swift <kate.swift@bartlitbeck.com>  
**Sent:** Thursday, August 5, 2021 1:16 PM  
**To:** Peter H. Weinberger <PWeinberger@spanglaw.com>; Mark.Lanier@LanierLawFirm.com  
**Cc:** EXT Track3Defendants <EXT-TRACK3DEFENDANTS@groups.jonesday.com>; Bennett, James R. (USAOHN) <James.Bennett4@usdoj.gov>; Jaco, Andrew J (CIV) <James.A.Jaco@usdoj.gov>; Sobotkin, David M. (CIV) <David.M.Sobotkin@usdoj.gov>; Bacchus, Renee A. (USAOHN) <Renee.Bacchus@usdoj.gov>; Phipps, Kelly E. (CIV) <Kelly.E.Phipps@usdoj.gov>; 2804 <mdl2804discovery@motleyrice.com>  
**Subject:** MDL Track 3 - deposition of Joe Rannazzisi

Counsel,

In light of your representation that the Track 3 plaintiffs will offer live trial testimony from Joe Rannazzisi on dispensing matters that were not included in the *Touhy* authorization for his Track 1 deposition, the Pharmacy Defendants in Track 3 request that you produce Mr. Rannazzisi for a deposition in advance of the Track 3 trial. If it is your position that you cannot produce him for a deposition (but are nonetheless still intending to call him live at trial), please let us know immediately so that we can serve the attached subpoena for his deposition testimony. Please also forward us any correspondence you have had with DOJ/DEA regarding *Touhy* authorization for Mr. Rannazzisi's Track 3 testimony.

Thank you.

**BartlitBeck** LLP

Katherine M. Swift | p: 312.494.4405 | c: 773.531.6118 | [Kate.Swift@BartlitBeck.com](mailto:Kate.Swift@BartlitBeck.com) | Courthouse Place, 54 West Hubbard Street, Chicago, IL 60654

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Peter H. Weinberger  
Of Counsel  
**Spangenberg Shibley & Liber LLP**  
1001 Lakeside Avenue East, Suite 1700  
Cleveland, Ohio 44114  
216-696-3232 Office  
216-696-3924 Fax  
[PWeinberger@spanglaw.com](mailto:PWeinberger@spanglaw.com) | [www.spanglaw.com](http://www.spanglaw.com)  
[Spangenberg Shibley & Liber](#)



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